

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
RECEIVED LAFAYETTE

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

Savoy, et al
TONY R. MOORE, CLERK
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

Civil Action No. 6:14-02581

versus

Judge Richard T. Haik, Sr.

Union Pacific Railroad Co., et al

Magistrate Judge C. Michael Hill

ORDER

Before the Court is a Petition For Damages filed by plaintiffs, “Ervin Savoy, Lillian Savoy, Arika A. Thompson, Wendell King and etal,” alleging damages resulting from the August 4, 2013 Union Pacific Railroad Company train derailment in Lawtell, Louisiana. *R. I.* Plaintiffs originally filed this action in the Twenty-seventh Judicial District Court, St. Landry Parish, Louisiana. Defendant, Union Pacific Railroad Co., removed this action to this Court, contending that the parties are diverse in citizenship and the amount in controversy exceeds the jurisdictional threshold of \$75,000.

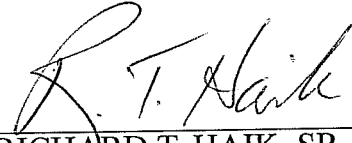
Under 28 U.S.C. § 1332, federal district courts have subject matter jurisdiction over civil actions in which the amount in controversy exceeds \$75,000 exclusive of interest and costs and the parties are citizens of different states. The person seeking to invoke federal court jurisdiction has the burden of proof of demonstrating, at the outset of the litigation, that the federal court has authority to hear the case. *St. Paul Reinsurance So., Ltd. v. Greenburg*, 134 F.3d 1250, 1253 (5th Cir. 1998). Therefore, a removing party bears the burden of showing that federal jurisdiction exists. *Manguno v. Prudential Property and Cas. Ins. Co.*, 276 F.3d 720, 723 (5th Cir. 2002). The removing defendant must establish that the amount in controversy exceeds \$75,000 and the parties are diverse in citizenship. 28 U.S.C. § 1332. Here, the Petition establishes that the parties are diverse in citizenship. Thus, in order to remain in federal court, “the removing defendant must prove by a preponderance of the

evidence that the amount in controversy exceeds \$75,000.” *Gebbia v. Wal-Mart Stores, Inc.*, 233 F.3d 880, 882 (5th Cir.2000).

Upon sua sponte review of Defendant’s removal materials, it is not apparent from the face of Plaintiffs’ Petition that their claims exceed \$75,000.00. The Petition does not provide any allegations as to Plaintiffs’ alleged injuries and/or damages nor any facts that would permit reasonable estimate of Plaintiffs’ actual damages to be calculated. Thus, the Court must conclude that it lacks subject matter jurisdiction. Accordingly,

IT IS ORDERED that the Clerk of this Court is to remand this action to the Twenty-seventh Judicial District Court, St. Landry Parish, Louisiana.

Thus done and signed this 4th day of March, 2015 at Lafayette, Louisiana.



RICHARD T. HAIK, SR.
UNITED STATES DISTRICT JUDGE